

SERVICE OF PROCESS BY MAIL

King County Family Law Facilitators: Instruction # S-3 Superior Court Civil Rule 4(d)(4)

*If the opposing party is not a resident of this state or cannot be found in this state, or you are not able to afford **person service of “process”** (the documents with which most legal actions are commenced; usually the **Summons**, or **Summons and Petition**, in a family law action), court rules may allow you to serve by mail. With only a very few exceptions, **you cannot have the opposing party served with process by mail without first obtaining a Court Order authorizing the form of service, and YOU CANNOT MAIL THE DOCUMENTS YOURSELF.***

If you do not know where the opposing party lives, the law requires you to make an honest, diligent and reasonable effort to locate the opposing party. **You must describe in detail what efforts you made to find the person in your request to the Court.** Such efforts may include checking a phone book or reverse directory in the location where the person last lived, calling directory assistance, checking internet resources and talking with the opposing party's friends, relatives, neighbors, co-workers, and employers. You should provide the Court with the names of the people you talk to. You may also ask the post office to do a postal trace or contact a tracing service.

If you have really tried and cannot find the opposing party, but you know the address of a relative or friend who the opposing party sees regularly, the Court may give you permission to have the documents mailed (**by someone other than yourself**) to the opposing party at the relative's or friend's address and/or at the opposing party's last known address. The Court may also give you permission to have the opposing party served by mail if they live out of state or if you cannot afford to have them served in person. In order to obtain permission to have the opposing party served by mail, the service by mail must be just as likely to notify the opposing party as would service by publication. Service by mail will cost you much less than service by publication (See Facilitator Instructions and # S-4 for information on service by publication). You may ask the Court for permission to have the opposing party served by mail on the same day you file your other documents with the Clerk's office.

STEP 1: OBTAIN AND COMPLETE THE REQUIRED FORMS

- **Motion and Declaration to Serve by Mail, WPF DRPSCU 01.0280**
Before you ask the Court to give you permission to have the opposing party served by mail, you must complete the **Motion and Declaration to Serve by Mail**. Fill in the case caption (names of the petitioner and respondent, upper left of form) and case number (next to “NO.”, upper right of form). Sign and date Section 1. In Sections 2.1 and 2.2 be sure to check all of the boxes that apply to your situation. In

Sections 2.3 and 2.4, you must write down what you know about the opposing party's whereabouts, why you need to serve him or her by mail, and what specific things you did to find him or her.

In Section 2.6, write in the last known address of the opposing party if you know that the mail will be forwarded to the opposing party from that address. If you do not know the opposing party's last known address, or if you do not know that the opposing party's mail is being forwarded from his or her last known address, write in the address of a relative or friend that the opposing party sees regularly. You should send the documents to more than one relative or friend if you know that the opposing party sees several relatives or friends regularly. Check the box in Section 2.7 that applies and sign and date the document. Make a copy of this document for your own records. Take the completed original of this document with you to Court as described in Step 2, below.

- **Order Allowing Service by Mail, WPF DRPSCU 01.0285**

Fill in the case caption (names of the petitioner and respondent, upper left of form) and case number (next to "NO.", upper right of form) on the **Order Allowing Service by Mail**. In Section 3.3, fill in the address(es) where the documents will be sent, either the opposing party's last known address or the address of the opposing party's relative or friend, or both. Check the box in Section 3.4 that applies to your situation. Sign under the words "Presented by." You will be asking the Commissioner to sign and date this Order, as explained in Step 2, below. Make a copy of this document for your records.

- **Summons by Mail, WPF DR 01.0290**

Fill in the case caption (names of the petitioner and respondent, upper left of form) and case number (next to "NO.", upper right of form). Check **all** boxes that apply to your situation in Section 1. Fill in the date that you will be having the documents mailed in Section 2. Sign and date the Summons at the bottom. **Fill in the name and address of the Court as well as your name and address**. Make a copy of this document for your own records. You will bring the completed original of this document with you to the courthouse (see Step 3) and you will have additional copies of this document mailed to the opposing party directly or through his or her relative or friend (see Step 4).

- **Return of Service, WPF DRPSCU 01.0250**

See Step 4 below for information on completion of this form.

STEP 2: PRESENT YOUR FORMS TO THE EX PARTE COMMISSIONER
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Make a copy of your completed forms. Take the original Motion and Declaration form, Summons by Mail and Order Allowing Service By Mail along with the copy of the Order Allowing Service By Mail to the Clerk's Office and pay the Ex-Parte via the Clerk processing fee. Complete the ex-parte cover sheet and select the method for picking

up your copy of the signed order. The Clerk will present the order to the Commissioner on your behalf. After the order has been signed the Clerk will automatically file the original documents and return the copy of the order to you via the method you requested.

Make enough additional copies of the Summons by Mail form to comply with the instructions in Step 3, below, then you can proceed to have **someone else** mail all required documents according to Step 3. **Do not mail the documents yourself.**

STEP 3: HAVE SOMEONE MAIL THE DOCUMENTS

You cannot mail the documents yourself. Someone other than you, who is at least 18 years of age and who is not a party to the action, must mail the documents for you. The person mailing the documents must also be competent to testify to having mailed the documents. Check the appropriate Facilitator instructions to make sure you are having them mail **all** of the required documents (for instance, Summons by Mail, Petition, Order Setting Domestic Case Schedule, Proposed Parenting Plan).

The Server must mail **2 copies** of the Summons by Mail and the other required documents to the opposing party and/or each of the relative(s) or friend(s) of the opposing party named in your Order Allowing Service by Mail. One set of copies must be mailed by **regular, first class mail**, with postage fully paid. The second set must be mailed by **certified mail, RETURN RECEIPT REQUESTED**, with postage fully paid (The Server must do this at the Post Office and there is an additional charge for certified mail and for the return receipt). Both envelopes must contain your return mailing address. When the receipt comes back to you from the Post Office, attach it to the Return of Service (Step 5).

Make sure that **your** return address is on **both envelopes**. **Important: if your Order Allowing Service by Mail requires the documents to be sent to a relative or friend of the opposing party, you must include in both envelopes a note asking the family member or friend of the opposing party to give the documents to the opposing party, and your Return of Service form should list this note along with the other documents being served. *If the Server does not do all of these things, the service may be declared insufficient and you may have to have the service done all over again.***

STEP 4: HAVE THE SERVER COMPLETE AND SIGN THE RETURN OF SERVICE

After the server has mailed the documents as directed in the Order Allowing Service by Mail, they should complete and sign the Return of Service. You may fill in the case caption (names of the petitioner and respondent, upper left of form) and

case number (next to “NO.”, upper right of form) on the **Return of Service** form. The Server must complete the rest of this document after he or she mails the envelopes at the Post Office.

In Section 2, the Server must fill in the name of the opposing party and the names of the documents he or she mailed to the opposing party. The Server should check the boxes that apply and then fill in the rest of the document names under “other.”

The Server should **leave Section 3 blank and check the last box of Section 4**. Also in Section 4, the Server should **fill in the date that the Judge or Commissioner signed your Order Allowing Service by Mail and the date that the Server mailed your documents**.

The Server must sign and date the Return of Service at the bottom, and fill in the place (city and state) where the Server is located when signing. The Server’s signature on this document means that everything contained in the document is true, under penalty of perjury. The Server’s name must also be printed on the line indicated. The Server should then give the completed Return of Service to you.

After you receive the return receipt (green card) from the post office, attach it to the completed Return of Service form. If there is no room to attach the green receipt card without covering up written or printed portions of the form, you should attach the card to a separate piece of paper and staple that to the back of the form. Also attach a copy of the Summons by Mail. You should make a copy of the Return of Service form, and attachments, to keep for your records, and file the original with the Clerk’s office.

NOTE: IF THE ENTIRE ENVELOPE IS RETURNED, DO NOT OPEN IT! MAKE A COPY OF THE ENVELOPE (FRONT AND BACK) AND ATTACH THE UNOPENED ENVELOPE TO BACK OF THE RETURN OF SERVICE FORM. MAKE 1 COPY FOR YOURSELF AND FILE THE ORIGINAL OF THE RETURN OF SERVICE WITH THE ENVELOPE ATTACHED, WITH THE CLERK’S OFFICE.

If 90 days pass following the date of mailing, and the opposing party has not responded, you may be able to finalize your action by default (contact the Facilitator’s Office for more information).

WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing your action. (You may be able to hire a lawyer for a small fee to review your completed forms and talk about your problem but not represent you in court). If you need a lawyer, contact the Family Law Facilitators’ Office for a *Legal Resource List* or call the King County Bar Association.